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September 27, 2021

VIA ECF

Honorable Taryn A. Merkl
United States Magistrate Judge
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Bartlett, et al. v. Société Générale de Banque au Liban
S.A.L., et al., 19 Civ. 007 (CBA) (TAM)

Dear Judge Merkl:

We write on behalf of the Moving Defendants¹ in response to Plaintiffs' September 20, 2021, letter-motion seeking leave to pursue discovery from "third parties on which they previously served preservation subpoenas and any other similarly situated persons or entities who may have relevant, responsive records in the United States." ECF No. 255.

The Moving Defendants did not object to Plaintiffs' request to serve preservation notices on certain third parties. However, demanding production from them or from other third parties at this juncture makes no sense, in light of the Moving Defendants' pending motions to dismiss.

On July 6, 2021, Judge Amon granted the Moving Defendants' request to submit motions to dismiss, with streamlined briefing, based upon recently issued Second Circuit precedent that the Moving Defendants contend compels dismissal of all of Plaintiffs' claims. *See* ECF Nos. 223, 224, 250, 251. As of September 9, 2021, the Moving Defendants' motions to dismiss were fully submitted. ECF Nos. 250, 251. The granting of those motions would obviate entirely the need for third party discovery. Even if the motions were granted only in part—*e.g.*, dismissing certain claims, claims against certain Moving Defendants, or claims based upon certain allegations—the

¹ The Moving Defendants are (1) Société Générale de Banque au Liban S.A.L., (2) Fransabank S.A.L., (3) MEAB Bank s.a.l., (4) BLOM Bank S.A.L., (5) Byblos Bank S.A.L., (6) Bank Audi S.A.L., (7) Bank of Beirut S.A.L., (8) Lebanon & Gulf Bank S.A.L., (9) Banque Libano Française S.A.L., (10) Bank of Beirut and the Arab Countries S.A.L., and (11) Fenicia Bank s.a.l.

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scope of third party discovery will be altered significantly. Given the abbreviated briefing and singular focus of the motions to dismiss, there is every reason to believe that a ruling on those motions will issue promptly.

Plaintiffs' proposal to initiate unspecified discovery now from an indefinite number of third parties that Plaintiffs believe may have "responsive" records in the United States would impose a burden on those third parties to investigate, negotiate, respond to, and potentially engage in motion practice over discovery demands that may well be obsolete, if not mooted entirely, in a matter of weeks. It also raises the prospect that the Court will be forced to evaluate the proper scope of third party discovery for the currently scheduled status conference on October 8, and then *re-evaluate* the scope of discovery in some subsequent conference, to the extent any aspect of the complaint survives dismissal.

Accordingly, the Moving Defendants respectfully request that the issue of third party discovery be deferred until after the Court rules on the pending motions to dismiss. For the same reasons, the Moving Defendants submit that the October 8 conference to discuss Plaintiffs' request should also be deferred pending the outcome of the motions to dismiss. Of course, the Moving Defendants welcome the opportunity to discuss these issues with Your Honor, should the Court believe that a conference on October 8 would be helpful.

Respectfully submitted,

/s/ Mark G. Hanchet

Mark G. Hanchet

Cc: Counsel of Record (via ECF)